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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,066	10/17/2003	Gregory Scott Clark	215.1022.01	8137
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SWERNOFSKY LAW GROUP PC 548 MARKET ST. SAN FRANCISCO, CA 94104			EXAMINER NEURAUTER, GEORGE C	
			ART UNIT 2143	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/688,066

Applicant(s)

CLARK, GREGORY SCOTT

Examiner

George C. Neurauter, Jr.

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/02)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claims 1-34 are currently presented and have been examined.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 22 August 2008 has been entered.

Response to Arguments

Applicant's arguments filed 22 August 2008 have been fully considered but they are not persuasive.

The limitation "wherein the downloading the file from the server through the firewall permits transferring a large file in chunks" does not further distinguish the claims and does not place the claims in condition for allowance since the limitation merely "permits" such a function to occur, therefore, this limitation is considered to be an intended use limitation and is not a positive recitation. See MPEP 2111.04 ("Claim scope is not limited by claim language that suggests or makes optional but does not require steps to be performed, or by claim language that does not limit a claim to a particular structure.")

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-2, 4-12, 14-24, and 33-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Application Publication 2003/0033517 A1 to Rutherglen et al in view of Applicant's admitted prior art ("AAPA").

Regarding claim 1, Rutherglen disclosed a method of transferring a file to or from a server (referred to throughout the reference as a "database server") past a firewall, comprising the steps of:

accessing a web site ("application server"; paragraph 0032) behind the firewall, the web site having a web page including an applet, and the web site associated with the server; receiving the web page and the applet from the web site; (paragraph 0031) sending the applet to an application at a file transfer gateway ("database proxy object"); and transferring the file between the file transfer gateway and the server

through the firewall, wherein the file is pushed from the server through the firewall to the file transfer gateway. (paragraphs 0020, 0030, 0038, and 0040)

Rutherglen does not expressly disclose wherein the pushing of the file is accomplished by a target by a target registering with the server behind the firewall, polling the server for files to be downloaded, and downloading the file from the server through the firewall over a virtual channel and by a server receiving a registration at the server behind the firewall, receiving polling of the server for files to be downloaded, and downloading the file from the server through the firewall over a virtual channel wherein the downloading the file from the server through the firewall permits transferring a large file in chunks, however, the Applicant admitted that "The invention also is applicable for a "push" operation in which a file download is pushed from a server to a target. From the target's perspective, one embodiment of this aspect of the invention is a method that includes the steps of registering with the server behind the firewall, polling the server for files to be downloaded, and downloading the file from the server through the firewall over a virtual channel. From the server's perspective, another embodiment is a method that includes receiving a registration at the server behind the firewall, receiving polling of the server for files to be downloaded, and downloading the file from the server through the firewall over a virtual channel." (page 6, lines 14-21 of the specification). The Applicant also admitted that "FIG. 9 shows details of a server-initiated download, known as a "push" operation, utilizing a file transfer technique according to one embodiment of the invention." (page 29, lines 16-17 of the specification)

Therefore, since the Applicant has admitted that the use of a "push" operation was known, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the known method of pushing a file through a firewall from a computer node such as a server to a computer node such as a target like a file transfer gateway in order to transfer a file through a firewall in the manner has disclosed in Rutherglen. It would have been obvious since such a "push" operation was known in the prior art as demonstrated by the "Gnutella Protocol Specification" reference cited in this Office Action (see page 5, specifically the section "Push (0x40)" and page 8, specifically the section "Firewalled Servents", particularly regarding "pushing" a file). Therefore, it would have been obvious to achieve the claimed invention.

Regarding claim 2, Rutherglen and AAPA disclosed a method as in claim 1.

Rutherglen discloses herein the web site is at a collaboration manager separate from the server. (paragraphs 0031, specifically "In the example shown, the...system may include an application server 60 and a database server 62." (see also Figure 1) and paragraph 0105, specifically "In another scenario, the database server and the application server are on separate physical machines...")

Regarding claim 4, Rutherglen and AAPA disclosed a method as in claim 1.

Rutherglen discloses wherein accessing the web site and receiving the web page and the applet are performed using a web browser. (paragraph 0030)

Regarding claim 5, Rutherglen and AAPA disclosed a method as in claim 4.

Rutherglen discloses wherein the web browser and the file transfer gateway are implemented on a client. (paragraphs 0030 and 0038)

Regarding claim 6, Rutherglen and AAPA disclosed a method as in claim 1.

Rutherglen discloses wherein the application at the file transfer gateway is a file transfer service implemented on a client or edgebox. (paragraph 0038)

Regarding claim 7, Rutherglen and AAPA disclosed a method as in claim 6.

Rutherglen discloses wherein transferring the file between the file transfer gateway and the server is performed over a virtual channel between the file transfer service at the file transfer gateway and a file transfer adapter at the server. (paragraphs 0038 and 0040)

Regarding claim 8, Rutherglen and AAPA disclosed a method as in claim 1.

Rutherglen discloses wherein the file is transferred in chunks. (paragraphs 0036 and 0037)

Regarding claim 9, Rutherglen and AAPA disclosed a method as in claim 8.

Rutherglen discloses wherein the chunks are transferred using a basic hypertext transport mechanism. (paragraphs 0036 and 0037)

Regarding claim 10, Rutherglen and AAPA disclosed a method as in claim 1.

Rutherglen discloses further comprising the step of encrypting, decrypting, or performing some other operation on the file before or after transferring the file. (paragraphs 0020, 0030, 0038, and 0040; see also Figures 3A and 3B)

Regarding claim 11, Rutherglen disclosed a method of transferring a file to or from a server past a firewall, comprising the steps of:

authenticating access by a requestor to a web site behind the firewall, the web site having a web page including an applet, and the web site associated with the server;

sending the web page and the applet to the requestor; receiving a request from the requestor to transfer the file to or from the requestor; transferring the file between the file transfer gateway and the server through the firewall, wherein the file is pushed from the server through the firewall to the file transfer gateway. (paragraphs 0008, 0020, 0030, 0031, 0038, and 0040)

Rutherglen does not expressly disclose wherein the pushing of the file is accomplished by a target by a target registering with the server behind the firewall, polling the server for files to be downloaded, and downloading the file from the server through the firewall over a virtual channel and by a server receiving a registration at the server behind the firewall, receiving polling of the server for files to be downloaded, and downloading the file from the server through the firewall over a virtual channel wherein the downloading the file from the server through the firewall permits transferring a large file in chunks, however, the Applicant admitted that "The invention also is applicable for a "push" operation in which a file download is pushed from a server to a target. From the target's perspective, one embodiment of this aspect of the invention is a method that includes the steps of registering with the server behind the firewall, polling the server for files to be downloaded, and downloading the file from the server through the firewall over a virtual channel. From the server's perspective, another embodiment is a method that includes receiving a registration at the server behind the firewall, receiving polling of the server for files to be downloaded, and downloading the file from the server through the firewall over a virtual channel." (page 6, lines 14-21 of the specification). The Applicant also admitted that "FIG. 9 shows details of a server-initiated download, known

as a "push" operation, utilizing a file transfer technique according to one embodiment of the invention." (page 29, lines 16-17 of the specification)

Claim 11 is rejected since the motivations regarding the obviousness of claim 1 also apply to claim 11.

Regarding claim 12, Rutherglen and AAPA disclosed a method as in claim 11.

Rutherglen discloses wherein the requestor is a browser or edgebox. (paragraph 0030)

Claims 14-18 are also rejected since these claims recite substantially the same limitations as recited in claims 2 and 7-10 respectively.

Regarding claim 19, Rutherglen disclosed a method of downloading a file from a server past a firewall, comprising the steps of:

registering with the server behind the firewall; polling the server for files to be downloaded; and downloading the file from the server through the firewall over a virtual channel; wherein the file is transferred in chunks using a basic hypertext transport mechanism. (paragraphs 0036-0038, 0040, and 0082)

Rutherglen does not expressly disclose wherein the pushing of the file is accomplished by a target by a target registering with the server behind the firewall, polling the server for files to be downloaded, and downloading the file from the server through the firewall over a virtual channel and by a server receiving a registration at the server behind the firewall, receiving polling of the server for files to be downloaded, and downloading the file from the server through the firewall over a virtual channel, however, the Applicant admitted that "The invention also is applicable for a "push" operation in

which a file download is pushed from a server to a target. From the target's perspective, one embodiment of this aspect of the invention is a method that includes the steps of registering with the server behind the firewall, polling the server for files to be downloaded, and downloading the file from the server through the firewall over a virtual channel. From the server's perspective, another embodiment is a method that includes receiving a registration at the server behind the firewall, receiving polling of the server for files to be downloaded, and downloading the file from the server through the firewall over a virtual channel." (page 6, lines 14-21 of the specification). The Applicant also admitted that "FIG. 9 shows details of a server-initiated download, known as a "push" operation, utilizing a file transfer technique according to one embodiment of the invention." (page 29, lines 16-17 of the specification)

Claim 19 is rejected since the motivations regarding the obviousness of claim 1 also apply to claim 19.

Claim 20 is also rejected since claim 20 recites substantially the same limitations as recited in claim 10.

Claims 21 and 22 are also rejected since claims 21 and 22 recite substantially the same limitations as recited in claims 19 and 10 respectively.

Regarding claim 23, Rutherglen and AAPA disclosed a method as in claim 2.

Rutherglen disclosed the method further comprising the step of checking the file out from the collaboration manager to the server. (see at least paragraph 0031)

Claim 24 is also rejected since this claim recites substantially the same limitations as recited in claim 23.

Regarding claim 33, Rutherglen and AAPA disclosed a method as in claim 1.

Rutherglen and AAPA did not expressly disclose wherein the file is in excess of 1 Gigabyte.

It would have been obvious to one of ordinary skill in the art at the time the invention was made that the size of a file being transferred in the method as taught in Rutherglen and AAPA could be of any size. Furthermore, one of ordinary skill would not have expected a difference in the operation of the method of Rutherglen and AAPA based on a file size and its size *per se* as recited in the claim. Therefore, it would have been obvious that a file exceeding the size of 1 gigabyte would have been able to be transferred using the method as disclosed in the references.

Claim 34 is also rejected since this claim recites substantially the same limitations as recited in claim 33.

Claims 3 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rutherglen and AAPA in view of "Java Applet Signing Guide" to Wilson.

Regarding claim 3, Rutherglen and AAPA disclosed a method as in claim 1.

Rutherglen disclosed wherein a user accessing the web site is authorized prior to retrieval of the applet. (paragraph 0008, 0030, and 0036)

Rutherglen and AAPA did not expressly disclose wherein the applet is signed, however, Wilson does disclose this limitation (page 5, first paragraph)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of these references since Wilson discloses that signing applets enables the user to determine whether the source of the

applet can be trusted (page 5, first paragraph). In view of these specific advantages and that the references are directed to communicating information between a client and a server, one of ordinary skill would have been motivated to combine these references and would have considered them to be analogous to one another based on their related fields of endeavor, which would lead one of ordinary skill to reasonably expect a successful combination of the teachings.

Claim 13 is also rejected since claim 13 recites substantially the same limitations as recited in claim 3.

Claims 25-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rutherglen and AAPA as applied to the claims above, and further in view of US Patent 6,154,778 to Koistinen et al.

Regarding claim 25, Rutherglen and AAPA disclosed a method as in claim 1.

Rutherglen and AAPA did not expressly disclose, however, Koistinen did disclose the method further comprising the step of negotiating context information ("quality of service offer") for transferring the file, wherein a server accepts or alters recommended context information sent by a computer to a server. (see at least column 2, lines 41-64)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Rutherglen and AAPA to achieve the claimed invention since Koistinen discloses that negotiating context information between two computers allows for the optimal transfer of data based on the resource allocation and load of the server (see at least column 2, lines 36-39). Since the references are directed to transferring files between computers and are considered to

be analogous to one another, one of ordinary skilled would have been motivated to use the advantageous negotiation of Koistinen and would have expected a successful combination based on the references and their analogous subject matter.

Regarding claim 26, Rutherglen, AAPA, and Koistinen disclosed a method as in claim 25.

Rutherglen and AAPA did not disclosed, however, Koistinen did disclose wherein the recommended context information comprises quality of service information and recommended file transfer parameters. (see "QoS levels" negotiated with the "offer" referred to throughout the reference)

Claim 26 is rejected since the motivations regarding the obviousness of claim 25 also apply to claim 26.

Claims 27-32 are also rejected since claims 27-28, 29-30, and 31-32 recite substantially the same limitations as recited in claims 25 and 26 respectively.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George C. Neurauter, Jr. whose telephone number is 571-272-3918. The examiner can normally be reached on the hours of 8:30am-5:00pm Eastern.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tonia Dollinger, can be reached on 571-272-4170. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/George C. Neurauter, Jr./
Primary Examiner, Art Unit 2143